



Client ID/Matter No. PURIT 54796  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue application of

FERNANDO J. ISAZA, ET AL.

Application/Control No.: 09/811,104

Filed: March 16, 2001

U. S. Patent No. 5,881,717

Issued: March 16, 1999

For: SYSTEM AND METHOD FOR  
ADJUSTABLE DISCONNECTION  
SENSITIVITY FOR DISCONNECTION AND  
OCCLUSION DETECTION IN A PATIENT  
VENTILATOR

Docket No. PURIT 54796

Los Angeles, California 90045

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TECHNOLOGY CENTER R3700

DECLARATION AND POWER OF ATTORNEY

FOR REISSUE APPLICATION

Mail Stop Reissue  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

We, Fernando J. Isaza, Stanley Y. Wong and Peter Doyle hereby declare:

We are the original and joint inventors of the subject matter which is described and  
claimed as amended in the application for reissue of U.S. Letters Patent No. 5,881,717 issued  
March 16, 1999, and entitled SYSTEM AND METHOD FOR ADJUSTABLE

Application/Control No.: 09/811,104

DISCONNECTION SENSITIVITY FOR DISCONNECTION AND OCCLUSION  
DETECTION IN A PATIENT VENTILATOR.

We hereby state that we have reviewed and understand the contents of the specification, including the claims as amended of the above-identified application for reissue.

We acknowledge the duty to disclose to the Office all information known to be material to patentability as defined in 37 CFR 1.56.

All errors being corrected in the above-identified application for reissue up to the time of filing of this declaration under 37 CFR 1.175(a) arose without any deceptive intention on the part of the applicants.

We believe our original patent to be partly inoperative or invalid because of error without any deceptive intent on the part of the applicants, by reason of the fact that we claimed less than we had a right to claim in the original patent, the disclosure contains inaccuracies, and through error and without deceptive intent the patent failed to name as inventors Stanley Y. Wong and Peter Doyle for the subject matter of the claims as amended.

More particularly, it was error to include in Claim 1, for example, to recite "A method for detecting disconnection and occlusion of a patient tubing system of a pneumatically driven, electronically controlled ventilator system for providing breathing gas to a patient during the exhalation phase of a breath cycle," since this wording could be interpreted as meaning that the ventilator system provided breathing gas to a patient during the exhalation phase of a breath cycle, which is incorrect. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not

require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in Claim 1 to recite the step of suspending gas flow delivery to the patient tubing system during the exhalation phase of the breath cycle. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in Claim 1, for example, the step of monitoring exhalation pressure in the patient tubing system during a plurality of control intervals of said exhalation phase of said breath cycle to determine whether a condition indicating occlusion of the patient tubing system has occurred, since the step of determining whether a condition indicating occlusion of the patient tubing system has occurred does not apply in the broadest sense of the invention to each of the criteria disclosed for detecting disconnection. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in the disclosure at column 5, line 3, and in Claim 2, for example, the step of declaring disconnection of the patient tubing system has occurred if, during a control interval, the pressure in the exhalation line falls outside, or is less than or greater than, a predetermined pressure range, since it is clear from the disclosure in column 5, at lines 11-12, that the necessary condition occurs if, during a control interval, the pressure in the exhalation line is within the predetermined pressure range. The attorney handling the prosecution of the

original application, through error, and without deceptive intent, failed to recognize that the invention does not require the limitation that the pressure in the exhalation line falls outside, or is less than or greater than, a predetermined pressure range, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize the above-described errors in the claims, failed to recognize the inaccuracies in the disclosure, and failed to name as inventors Stanley Y. Wong and Peter Doyle.

The present declaration and amendments filed with the subject reissue application overcome the aforementioned defects of the original patent and correct the claims to provide the scope of protection to which we are entitled.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this reissue application or any patent issued thereon.

We hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

RICHARD A. BARDIN, Reg. No. 20,365; CRAIG B. BAILEY, Reg. No. 28,786; I. MORLEY DRUCKER, Reg. No. 19,751; PAUL Y. FENG, Reg. No. 35,510; JOHN K. FITZGERALD, Reg. No. 38,881; JOHN V. HANLEY, Reg. No. 38,171; GUNTHER O.

HANKE, Reg. No. 32,989; JAMES JUO, Reg. No. 36,177; LISA A. KARCZEWSKI, Reg. No. 53,096; GILBERT G. KOVELMAN, Reg. No. 19,552; THOMAS H. MAJCHER, Reg. No. 31,119; DAVID G. MAJDALI, Reg. No. 53,257; JOHN S. NAGY, Reg. No. 30,664; PAUL D. O'BRIEN, Reg. No. 42,949; DAVID G. PARKHURST, Reg. No. 29,422; JAMES W. PAUL, Reg. No. 29,967; RONALD E. PEREZ, Reg. No. 36,891; DOUGLAS R. PETERSON, Reg. No. 53,458; DAVID J. PITMAN, Reg. No. 48,777; ELLSWORTH R. ROSTON, Reg. No. 16,310; THOMAS A. RUNK, Reg. No. 30,679; DAVID S. SARISKY, Reg. No. 41,288; HOWARD N. SOMMERS, Reg. No. 24,138; and VERNON YANCY, Reg. No. 52,379. Direct all telephone calls to James W. Paul, at telephone No. (310) 824-5555.

Address all correspondence to:

FULWIDER PATTON LEE & UTECHT, LLP  
Howard Hughes Center  
6060 Center Drive, Tenth Floor  
Los Angeles, CA 90045

Full name of first inventor: FERNANDO J. ISAZA

Inventor's signature: Fernando J. Isaza

Date: October 8, 2003

Citizenship: UNITED STATES OF AMERICA

Residence: Carlsbad, California

Post Office Address: 3897 Woodvale Drive

Carlsbad, California 92008

Full name of second inventor: STANLEY Y. WONG

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_, 2003

Citizenship: UNITED STATES OF AMERICA

Last known residence: Rancho Santa Margarita, California

Last known Post Office Address: 10 Grassy Knoll Ln.

Rancho Santa Margarita, California 92688-5568

Full name of third inventor: PETER DOYLE

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_, 2003

Citizenship: UNITED STATES OF AMERICA

Residence: Vista, California

Post Office Address: 1948 Casablanca Ct.

Vista, California 92083



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Address all correspondence to:

FULWIDER PATTON LEE & UTECHT, LLP  
Howard Hughes Center  
6060 Center Drive, Tenth Floor  
Los Angeles, CA 90045

Full name of first inventor: FERNANDO J. ISAZA

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_, 2003

Citizenship: UNITED STATES OF AMERICA

Residence: Carlsbad, California

Post Office Address: 3897 Woodvale Drive

Carlsbad, California 92008

Full name of second inventor: STANLEY Y. WONG

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_, 2003

Citizenship: UNITED STATES OF AMERICA

Last known residence: Rancho Santa Margarita, California

Last known Post Office Address: 10 Grassy Knoll Ln.

Rancho Santa Margarita, California 92688-5568

Full name of third inventor: PETER DOYLE

Inventor's signature: Peter Doyle

Date: August 20, 2003

Citizenship: UNITED STATES OF AMERICA

Residence: Vista, California

Post Office Address: 1948 Casablanca Ct.

Vista, California 92083